IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

WP(C).No. 30034 of 2005(A)

AGAINST THE ORDER IN IA 3760 / 2004 IN
OS.183/2002 of PRL.MUNSIFF COURT, CHERTHALA

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PETITIONER:

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1. THRESSIAMMA,
   W/O. PAILO CHACKO, KANDIKKATTU,
   EZHUPUNNA P.O., CHERTHALA.

2. K.C. POULOSE, S/O. PAILO CHACKO,
   KANDIKKATTU, EZHUPUNNA P.O.,
   CHERTHALA.

3. K.C. JOHN, S/O. PAILO CHACKO,
   KANDIKKATTU, EZHUPUNNA P.O,
   CHERTHALA.

4. THANKAMMA, D/O. PAILO CHACKO,
   MADAVAN, 11TH MILE, CHERTHALA.

5. MARIYAKUTTY, D/O. PAILO CHACKO,
   CHAKKALAYIL, T.V. PURAM P.O., VAIKOM.

BY ADV. SMT.C.G.BINDU
SMT.C.G.AJITHA

RESPONDENTS:

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1. K.C. LONAPPAN, S/O. CHACKO,
   THURUTHEL, EZHUPUNNA MURI,
   EZHUPUNNA VILLAGE.

2. VALIYAKANI PADESEKHARAM KARSHKA
   SANGHOM, REG.NO.A.261/77,
   EZHUPUNNA, REP. BY ITS PRESIDENT,
   RAMACHANDRAN NAIR.

3. VARKEY ANTONY, NENMELIPARAMBIL,

EZHUPUNNA, SECRETARY OF VALIYAKANI
PADESEKHARAM KARSHAKA SANGHOM.

BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

Petitioners exhibits:-

Ext.P1:- True copy of order in I.A.3760/04 in O.S.183/02 dated 29.8.2005 of the Principal Munsiff, Cherthala.

Respondents exhibits:-

Ext.R1(a):- Copy of unregistered agreement dated 8-4-1989.

Ext.R1(b):- Copy of judgment dated A.S.61/97 of the District Court, Alappuzha.

Ext.R1(c):- Copy of the B Diary in Execution Petitions of the Sub Judge, Cherthala.

/true copy/

P.S. To Judge

M.SASIDHARAN NAMBIAR,J.

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W.P.(C) NO.30034 OF 2005

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Dated this the 4th day of December,2006

JUDGMENT

Petitioners are not parties to O.S.183/02 on the file of Munsiff Court, Cherthala. They filed I.A.3760/04 to get themselves impleaded in the suit which was dismissed under Ext.P1 order. First respondent is the plaintiff and respondents 2 to 4 are the defendants. First respondent instituted the suit seeking a decree for realisation of the amount from respondents 2 to 4. Case of petitioners was that in respect of the paddy field O.S.81/90 was instituted by first respondent against petitioners and though the suit was decreed in favour of first respondent, Second Appeal is pending before this court and though first respondent claims that property has been taken delivery of, that matter is disputed by petitioners and in such circumstance, court below should have impleaded petitioners as sought for in I.A.3760/04.

2.Learned counsel appearing for petitioners and respondents were heard.

3. On hearing the arguments of learned counsel appearing for petitioners and respondents, I find no infirmity in Ext.P1 order warranting interference in exercise of the extra ordinary jurisdiction of this court under Article 227 of the Constitution of India. The question to be decided in O.S.183/02 is whether first respondent plaintiff is entitled to realise the amount from defendants 2 to 4. If the amount is not due to the plaintiff, but due to petitioners herein as claimed by them, the suit cannot be decreed. In any event, petitioners are not necessary parties to the suit.

Writ Petition is dismissed.

M.SASIDHARAN NAMBIAR
JUDGE

tpl/-

M.SASIDHARAN NAMBIAR, J.

W.P.(C).NO. /06

JUDGMENT

SEPTEMBER,2006